

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)	CASE NO.: 1:05-cv-00081-SJM
)	
Plaintiff,)	
)	
vs.)	
)	
JAMES E. WHITLEY, JR., and)	
CHARITY A. WHITLEY,)	
)	
Defendants.)	

MOTION FOR ENTRY OF DEFAULT AND DEFAULT JUDGMENT

AND NOW, comes Plaintiff, the United States of America, by its attorney, MARY BETH BUCHANAN, the United States Attorney for the Western District of Pennsylvania, and Jones, Gregg, Creehan & Gerace, LLP, counsel for the United States Attorney for said district, and pursuant to Rules 55(a) and 55(b)(2) of the Federal Rules of Civil Procedure, respectfully moves the Court to enter Default and Judgment by Default in favor of the Plaintiff, the United States of America, and against Defendants, James E. Whitley, Jr. and Charity A. Whitley. In further support of its Motion, the United States respectfully avers as follows:

1. On March 14, 2005, the United States filed a Complaint in Mortgage Foreclosure and for Deficiency Judgment against the Defendants.

2. On that same date, the Defendants were mailed a copy of the Complaint, the Notice of Lawsuit and Request for Waiver of Service of Summons, and the Waiver of Service of Summons, via Certified Mail, Return Receipt Requested at their last known

address of 219 Rocca Way, Franklin, Pennsylvania 16323. Defendants failed to acknowledge receipt of the packages, which were subsequently returned to the Plaintiff by the Franklin, Pennsylvania postmaster.

3. On or about May 4, 2005, the United States Marshals Service personally served Defendant James E. Whitley, Jr. with a copy of the Summons and Complaint.

4. On or about August 31, 2005, the United States Marshals Service personally served Defendant, Charity A. Whitley with a copy of the Summons and Complaint.

4. The Defendants have not answered or asserted any defense in this action as required by the Federal Rules of Civil Procedure.

5. The amounts due to Plaintiff from Defendants on the Promissory Note and Real Estate Mortgage are as follows:

(a)	Principal and advances	\$44,389.98
(b)	Interest through August 31, 2004	\$ 2,548.54
(c)	Interest Credit Subject to Recapture	<u>\$17,009.73</u>
TOTAL		<u>\$63,948.25</u>

together with interest accruing from August 31, 2004, at the rate of 6.5%, per annum, to the date of judgment, plus interest from the date of judgment at the legal rate and costs.


WHEREFORE, Plaintiff, the United States of America, respectfully requests that the Court:

a. Grant Plaintiff's Motion and, accordingly, enter a Default and Judgment by Default against James E. Whitley, Jr. and Charity A. Whitley;

- b. Order that the Plaintiff be paid the amount adjudged to be due and owing Plaintiff, with interest thereon to the time of such payment, together with the costs and expenses incurred by this action and by any sale of the subject property;
- c. Expose the subject property to sale for the purpose of satisfying Plaintiff's judgment; and
- d. Grant Plaintiff such other and further relief as the Court deems just and proper.

Respectfully submitted,

JONES, GREGG, CREEHAN & GERACE, LLP

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